

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition)
for Modification of Probation)
of:)

OAH No. N-33001

JAMES EUGENE DAMON, M.D.)
5435 Snyder Lane, Ste. A)
Rohnert Park California 94928)
Certificate No. GO 14803)

Petitioner.)

DECISION

This matter came on for hearing on February 3, 1989, in Emeryville, California before a panel of the Medical Quality Review Committee, District Five, of the Board of Medical Quality Assurance. Robert R. Coffman, Administrative Law Judge, Office of Administrative Hearings, presided.

Petitioner was represented by Kenneth L. Freeman, Freeman & Galie, 507 Polk Street, Suite 310, San Francisco, California 94102.

Jeanne Werner, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Evidence was received and the matter was submitted. After due consideration, the panel makes the following decision:

FINDINGS OF FACT

I

Petitioner's physician's and surgeon's certificate was revoked effective April 24, 1987, but revocation was stayed and petitioner placed on probation for 5 years on conditions, including a condition that petitioner may not act as a primary surgeon unless he first complies with specific monitoring requirements.

The conduct which formed the basis for the disciplinary order was petitioner's gross negligence in performing the wrong surgical procedure on a patient in February 1982. The patient was scheduled for a limited fasciectomy. Petitioner mistakenly performed a different procedure, carpal tunnel release.

II

In August 1988 petitioner filed the instant petition to terminate probation.

III

Petitioner conducts a medical practice consisting of office orthopedics (40%) and disability evaluations (60%), in Rohnert Park, California.

He has not acted as a primary orthopedic surgeon since 1985 and has no intent to perform surgery in the future.

Petitioner has taken numerous hours of continuing medical education and has regularly kept abreast of recent developments in orthopedic medicine.

Petitioner admits full responsibility for the error that resulted in the Board's finding of gross negligence. Petitioner carefully checks patient records, and avoids working too fast or taking short cuts, in order to prevent the reoccurrence of any similar acts of negligence.

Petitioner seeks termination of probation primarily to avoid being challenged in his disability evaluations because he is on probation to the Board.

Petitioner's colleagues in the Santa Rosa area think highly of his ability as an orthopedist.

DETERMINATION OF ISSUES

Respondent's conduct which formed the basis for the disciplinary action occurred in February 1982. Since then petitioner has dedicated himself to being a responsible, competent medical practitioner. Continuing probation would unreasonably interfere with petitioner's livelihood in that it has adversely affected his ability to participate in medical-legal cases.

Petitioner represented to the panel, under oath, that he would not seek hospital surgical privileges. The panel is granting the petition on that basis. The panel believes that petitioner would not be qualified to perform surgery without an extensive formal training or retraining program.

ORDER

The petition to terminate probation is granted.
Petitioner's license is fully restored.

DATED: March 14, 1989

Effective Date March 14, 1989



STEPHEN TALLER, M.D.
Chairperson

RRC:ST;hrs